

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103**



In the Matter of: :
: **Symba Capital, LLC** : **U.S. EPA Docket No. CAA-03-2023-0072**
124 Cedarhurst Ave, Suite 2 :
Cedarhurst, New York 11516 : **Proceeding under Section 113 of the Clean Air**
& : **Act, 42 U.S.C. § 7413**
: **Giant Floor and Wall Covering Co., Inc.** :
1345 Route 315 :
Wilkes-Barre, Pennsylvania 18702 :
: **Respondents.** :
: **Saint Michaels Boys Home** :
72 Eihab Lane :
Tunkhannock, Pennsylvania 18615 :
: **Facility.** :
:

CONSENT AGREEMENT

PRELIMINARY STATEMENT

1. This Consent Agreement is entered into by the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III (“Complainant”), and Respondents Symba Capital, LLC (“Symba Capital”) and Giant Floor and Wall Covering Co., Inc. (“Giant Floor”) (collectively the “Parties”), pursuant to Section 112 of the Clean Air Act (“CAA”), as amended, 42 U.S.C. § 7412, and the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation, Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22. Section 113(a)(3) and (d) of the CAA, 42 U.S.C. § 7413(a)(3) and (d) authorizes the Administrator of the U.S. Environmental Protection Agency to assess penalties and undertake other actions required by this Consent Agreement. The Administrator has delegated this authority to the Regional Administrator who, in turn, has delegated the authority to enter into agreements concerning administrative penalties to the Complainant. This Consent Agreement and the attached Final Order (hereinafter jointly referred to as the “Consent Agreement and Final Order”) resolve Complainant’s civil penalty claims against Respondents under the CAA for the violations alleged herein.

2. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant hereby simultaneously commences and resolves this administrative proceeding.

JURISDICTION

3. The U.S. Environmental Protection Agency (“EPA”) has jurisdiction over the above-captioned matter, as described in Paragraph 1, above.
4. The Consolidated Rules of Practice govern this administrative adjudicatory proceeding pursuant to 40 C.F.R. § 22.1(a)(2).

GENERAL PROVISIONS

5. For purposes of this proceeding only, Respondents admit the jurisdictional allegations set forth in this Consent Agreement and Final Order.
6. Except as provided in Paragraph 5, above, Respondents neither admit nor deny the specific factual allegations set forth in this Consent Agreement.
7. Respondents agree not to contest the jurisdiction of EPA with respect to the execution of this Consent Agreement, the issuance of the attached Final Order, or the enforcement of this Consent Agreement and Final Order.
8. For purposes of this proceeding only, Respondents hereby expressly waives their right to contest the allegations set forth in **this Consent Agreement and Final Order** and waives its right to appeal the accompanying Final Order.
9. Respondents consent to the assessment of the civil penalty stated herein, to the issuance of any specified compliance order herein, and to any conditions specified herein.
10. Respondents shall bear their own costs and attorney’s fees in connection with this proceeding.
11. Pursuant to Section 113(d)(1) of the CAA, 42 U.S.C. § 7413(d)(1), the Administrator and the Attorney General, each through their respective delegates, have jointly determined that this administrative penalty action is appropriate.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

12. In accordance with 40 C.F.R. §§ 22.13(b) and 22.18(b)(2) and (3) of the Consolidated Rules of Practice, Complainant alleges and adopts the Findings of Fact and Conclusions of Law set forth immediately below.
13. Section 112 of the CAA, 42 U.S.C. § 7412, requires the Administrator of EPA to publish a list of air pollutants determined to be hazardous and to promulgate regulations

establishing emission standards or, where necessary, design, equipment, work practice, or operational standards for each listed hazardous air pollutant.

14. Section 114 of the CAA, 42 U.S.C. § 7414, authorizes the Administrator of EPA to require any person who owns or operates any emission source or who is otherwise subject to the requirements of the CAA to, among other things, establish and maintain such records, make such reports and provide such information as the Administrator might reasonably require to develop or determine compliance with emission standards.
15. EPA listed asbestos as a hazardous air pollutant under the authority of Section 112 of the CAA, 42 U.S.C. § 7412. Pursuant to Sections 112 and 114 of the CAA, 42 U.S.C. §§ 7412 and 7414, EPA promulgated a National Emission Standard for Asbestos, codified at 40 C.F.R Part 61, Subpart M, Sections 61.140 - 61.156 (the “asbestos NESHAP”). The asbestos NESHAP includes regulations governing, inter alia, the emission, handling, and disposal of asbestos by the owner or operator of a demolition or renovation activity at an affected facility. Pursuant to Section 112(q) of the CAA, 42 U.S.C. § 7412(q), the above referenced standards and provisions remain in full force and effect, notwithstanding the November 15, 1990 Clean Air Act Amendments.
16. Pursuant to 40 C.F.R. § 61.141, "adequately wet" means sufficiently mix or penetrate with liquid to prevent the release of particulates. If visible emissions are observed coming from asbestos-containing material, then that material has not been adequately wetted. However, the absence of visible emissions is not sufficient evidence of being adequately wet.
17. Pursuant to 40 C.F.R. § 61.141, "asbestos" means the asbestiform varieties of serpentinite (chrysotile), riebeckite (crocidolite), cummingtonite-grunerite, anthophyllite, and actinolite-tremolite.
18. Pursuant to 40 C.F.R. § 61.141, "asbestos-containing waste materials" means mill tailings or any waste that contains commercial asbestos and is generated by a source subject to the provisions of this subpart. This term includes filters from control devices, friable asbestos waste material, and bags or other similar packaging contaminated with commercial asbestos. As applied to demolition and renovation operations, this term also includes regulated asbestos-containing material waste and materials contaminated with asbestos including disposable equipment and clothing.
19. Pursuant to 40 C.F.R. § 61.141, “Category I nonfriable asbestos-containing material (‘ACM’)” means asbestos-containing packings, gaskets, resilient floor covering, and asphalt roofing products containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.
20. Pursuant to 40 C.F.R. § 61.141, "facility" means, in pertinent part, any institutional, commercial, public, industrial, or residential structure, installation, or building.

21. Pursuant to 40 C.F.R. § 61.141, "facility component" means any part of a facility, including equipment.
22. Pursuant to 40 C.F.R. § 61.141, "friable asbestos material", means, in pertinent part, any material containing more than 1 percent asbestos as determined using the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy, that, when dry, can be crumbled, pulverized, or reduced to powder by hand pressure. If the asbestos content is less than 10 percent as determined by a method other than point counting by polarized light microscopy ("PLM"), verify the asbestos content by point counting using PLM.
23. Pursuant to 40 C.F.R. § 61.141, "owner or operator of a demolition or renovation activity" means any person who owns, leases, operates, controls, or supervises the facility being demolished or renovated or any person who owns, leases, operates, controls, or supervises a demolition or renovation operation, or both.
24. Pursuant to 40 C.F.R. § 61.141, "regulated asbestos-containing material ("RACM")" means, (a) Friable asbestos material, (b) Category I nonfriable ACM that has become friable, (c) Category I nonfriable ACM that will be or has been subjected to sanding, grinding, cutting, or abrading, or (d) Category II nonfriable ACM that has a high probability of becoming or has become crumbled, pulverized, or reduced to powder by the forces expected to act on the material in the course of demolition or renovation operations regulated by this subpart.
25. Pursuant to 40 C.F.R. § 61.141, "remove" means to take out RACM or facility components that contain or are covered with RACM from any facility.
26. Pursuant to 40 C.F.R. § 61.141, "renovation" means altering a facility or one or more facility components in any way, including the stripping or removal of regulated asbestos-containing material from a facility component.
27. Pursuant to 40 C.F.R. § 61.141, "Resilient floor covering" means asbestos- containing floor tile, including asphalt and vinyl floor tile, and sheet vinyl floor covering containing more than 1 percent asbestos as determined using polarized light microscopy according to the method specified in appendix E, subpart E, 40 CFR part 763, section 1, Polarized Light Microscopy.
28. Pursuant to 40 C.F.R. § 61.141, "strip" means to take off RACM from any part of a facility or facility components.
29. Section 302(e) of the CAA, 42 U.S.C. § 7602(e), defines "person" to include "an individual, corporation, partnership, (or) association."
30. Under the asbestos NESHAP, certain inspection, notification, work practice, and waste disposal requirements at 40 C.F.R. §§ 61.145(a), 61.145(b), 61.145(c), and 61.150 apply to each owner or operator of a demolition or renovation activity at a regulated facility

when the combined amount of RACM to be stripped, removed, dislodged, cut, drilled, or similarly disturbed meets or exceeds the regulatory threshold amount of at least 80 linear meters (260 linear feet) on pipes, at least 15 square meters (160 square feet) on other facility components, or at least 1 cubic meter (35 cubic feet) off facility components where the length or area could not be measured previously (hereinafter, this 260/160/35 foot regulatory threshold amount is referred to as the “Threshold Quantity”). *See* 40 C.F.R. § 61.145(a)(4).

31. Pursuant to the asbestos NESHAP at 40 C.F.R. §§ 61.145(a) and 61.145(b), for planned renovation operations involving at least the Threshold Quantity of RACM, an owner or operator of a demolition or renovation activity must provide prior written notice of intention to demolish or renovate. For such planned renovation operations, 40 C.F.R. §§ 61.145(a)(4) and 61.145(b)(3) require that the prior written notification be submitted to EPA at least ten (10) working days before asbestos stripping or removal work or any other activity begins (such as site preparation that would break up, dislodge or similarly disturb asbestos material).
32. Pursuant to the asbestos NESHAP at 40 C.F.R. § 61.145(c)(3), for scheduled demolition and renovation operations at a facility involving at least the Threshold Quantity of RACM, when RACM is stripped from a facility component while it remains in place at the facility, each owner or operator of a demolition or renovation activity must adequately wet the RACM during stripping, unless prior written approval to use another emission control method is obtained from EPA.
33. Pursuant to the asbestos NESHAP at 40 C.F.R. § 61.145(c)(6)(i), for scheduled demolition and renovation operations at a facility involving at least the Threshold Quantity of RACM, each owner or operator of a demolition or renovation activity must adequately wet all RACM, including material that has been removed or stripped, and ensure that it remains wet until collected and contained or treated in preparation for disposal in accordance with 40 C.F.R. § 61.150.
34. Pursuant to the asbestos NESHAP at 40 C.F.R. § 61.145(c)(8), “no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.”
35. Symba Capital is a Limited Liability Corporation (“LLC”) incorporated under the laws of the State of New York with a primary business address of 124 Cedarhurst Ave, Suite 2, Cedarhurst, New York 11516.
36. Symba Capital is a “person” within the meaning Section 302(e) of the Act, 42 U.S.C. § 7602(e).

37. Giant Floor is a corporation incorporated under the laws of the Commonwealth of Pennsylvania with a primary business address of 1345 Route 315, Wilkes-Barre, Pennsylvania 18702.
38. Giant Floor is a “person” within the meaning Section 302(e) of the Act, 42 U.S.C. § 7602(e).
39. The Saint Michaels Boys Home located at 72 Eihab Lane, Tunkhannock, Pennsylvania 18615 (“Facility”), is a “facility” within the meaning of 40 C.F.R. § 61.141.
40. At all times relevant to the violations alleged herein, Symba Capital owned, operated, controlled, or supervised the Facility.
41. On January 19, 2022, a duly authorized representative of EPA (“EPA Inspector”) conducted an inspection of the Facility (“Inspection”). The purpose of this Inspection was to verify compliance with the asbestos NESHAP.
42. At the time of the Inspection, the Facility was being renovated to become a summer camp (“Renovation”).
43. The Renovation described above is a “renovation” within the meaning of 40 C.F.R. § 61.141.
44. At all times relevant to the violations alleged herein, Symba Capital was an owner “of a demolition or renovation activity” as defined under 40 C.F.R § 61.141.
45. During the Inspection, representatives from Giant Floor were observed removing floor tile.
46. At all times relevant to the violations alleged herein, Giant Floor was an “operator of a demolition or renovation activity” as defined under 40 C.F.R § 61.141.
47. During the Inspection, the EPA Inspector observed dry suspect RACM flooring debris while in place at the Facility during the stripping operation.
48. During the Inspection, the EPA Investigator observed that the combined amount of suspect RACM involved with the Renovation was at least 1068 square feet and exceeded the threshold amounts in 40 C.F.R § 61.145(a).
49. During the Inspection, the EPA Inspector observed dry suspect RACM flooring debris on the floor throughout the Facility before the RACM was disposed.
50. During the Inspection, Symba Capital and Giant Floor informed the EPA Inspector that they had no trained or licensed asbestos workers working at the Facility.

51. At the end of the Inspection, the EPA Inspector took photographs and collected nine samples of suspect RACM.
52. According to Polarized Light Microscopy with Dispersion Staining following the EPA “Interim Method” for determination of asbestos in bulk building materials (EPA-600/M4-82-020, or 40 C.F.R. part 763, Appendix E to Subpart E), all nine (9) samples collected by the EPA Inspector during the Inspection were determined to contain more than one (1) percent asbestos.
53. All of the asbestos observed during the Inspection and referred to above constitute RACM as that term is defined at 40 C.F.R. § 61.141 because the asbestos was “Category I nonfriable ACM” as that term is defined at 40 C.F.R. § 61.141 that was subject to sanding, grinding, cutting, or abrading and contained more than one (1) percent asbestos.
54. Pursuant to 40 C.F.R. § 61.145(a)(4), the asbestos NESHAP notification requirements of 40 C.F.R. § 61.145(b) and work practice requirements of 40 C.F.R. § 61.145(c) applied to the Renovation at the Facility since the combined amount of RACM removed involved at least 80 linear meters (260 linear feet) on pipes or least 15 square meters (160 square feet) on other facility components.

Count I

Failure to provide written notice of intention to demolish or renovate

55. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
56. 40 C.F.R. § 61.145(b)(1) provides that each owner or operator of a demolition or renovation activity shall “[p]rovide the Administrator with written notice of intention to demolish or renovate.”
57. 40 C.F.R. § 61.145(b)(3)(i) provides that the written notice of intention to demolish or renovate must be postmarked or delivered at least 10 working days before asbestos stripping or removal work.
58. At the time of the January 19, 2022 Inspection, Symba Capital and Giant Floor had failed to provide the Administrator with written notice of intention to demolish or renovate.
59. By failing to submit a notice 10 days prior to initiating asbestos stripping or removal work on or around January 19, 2022, Symba Capital and Giant Floor violated the notification requirements of 40 C.F.R. § 61.145(b).
60. In failing to comply with 40 C.F.R. § 61.145(b), Symba Capital and Giant Floor are in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and are subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

Count II
Failure to adequately wet RACM during the stripping operation

61. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
62. 40 C.F.R. § 61.145(c)(3) provides that for planned renovation operations involving at least the Threshold Quantity of RACM, when RACM is stripped from a facility component while it remains in place, an owner or operator of a demolition or renovation activity must adequately wet RACM during stripping, unless prior written approval to use another emission control method is obtained from EPA.
63. During the January 19, 2022 Inspection, the EPA Inspector observed dry suspect RACM flooring debris while in place at the Facility during the stripping and removal operation. Thus, Symba Capital and Giant Floor failed to adequately wet RACM during the stripping from a facility component while the RACM remained in place and did not obtain prior written approval from EPA to use another emission control method.
64. At the time of the Inspection, Symba Capital and Giant Floor violated 40 C.F.R. § 61.145(c)(3) by failing to adequately wet RACM during the stripping from a facility component while the RACM remained in place and did not obtain prior written approval from EPA to use another emission control method.
65. In failing to comply with 40 C.F.R. § 61.145(c)(6)(i), Symba Capital and Giant Floor are in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and are subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

Count III
Failure to keep asbestos wet before removal

66. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
67. 40 C.F.R. § 61.145(c)(6)(i) provides that for planned renovation operations involving at least the Threshold Quantity of RACM, an owner or operator of a demolition or renovation activity must adequately wet all RACM, including material that has been removed or stripped, and ensure that it remains wet until collected and contained or treated for disposal under the Asbestos NESHAP.
68. During the January 19, 2022 Inspection, the EPA Inspector observed dry suspect RACM flooring debris at the Facility that had been removed, stripped and chipped and was not collected or contained or treated for disposal.
69. During the Inspection, Symba Capital and Giant Floor failed to adequately wet RACM that had been removed or stripped and ensure that it remained wet until collected and

contained or treated in preparation for disposal in accordance with 40 C.F.R. § 61.150, as required by 40 C.F.R. § 61.145(c)(6)(i).

- 70. At the time of the Inspection, Symba Capital and Giant Floor violated 40 C.F.R. § 61.145(c)(6)(i) by failing to keep the RACM adequately wet until it was collected and contained or treated in preparation for disposal in accordance with 40 C.F.R. § 61.150, as required by 40 C.F.R. § 61.145(c)(6)(i).
- 71. In failing to comply with 40 C.F.R. § 61.145(c)(6)(i), Symba Capital and Giant Floor are in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and are subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

Count IV

Failure to have at least one on-site representative trained in the provisions of 40 C.F.R. § 61.145 and the means of complying with that regulation

- 72. The information and allegations in the preceding paragraphs of this Consent Agreement are incorporated herein by reference.
- 73. 40 C.F.R. § 61.145(c)(8) provides that “no RACM shall be stripped, removed, or otherwise handled or disturbed at a facility regulated by this section unless at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of this regulation and the means of complying with them, is present.”
- 74. During the January 19, 2022 Inspection, Symba Capital and Giant Floor informed the EPA Inspector that they had no trained or licensed asbestos workers on-site at the Facility.
- 75. During the renovation at the Facility, Symba Capital and Giant Floor violated 40 C.F.R. § 61.145(c)(8) by failing to have at least one on-site representative, such as a foreman or management-level person or other authorized representative, trained in the provisions of 40 C.F.R. § 61.145(c)(8) and the means of complying with that regulation.
- 76. In failing to comply with 40 C.F.R. § 61.145(c)(8), Symba Capital and Giant Floor are in violation of Section 112 of the CAA, 42 U.S.C. § 7412, and are subject to the assessment of penalties under Section 113 of the CAA, 42 U.S.C. § 7413.

CIVIL PENALTY

- 77. In settlement of EPA’s claims for civil penalties for the violations alleged in this Consent Agreement, Respondents consent to the assessment of a civil penalty in the amount of **FORTY-THREE THOUSAND SIX HUNDRED AND NINETY-THREE dollars (\$43,693)**, which Respondents shall be jointly and severally liable to pay in accordance with the terms set forth below.

78. The civil penalty is based upon EPA’s consideration of a number of factors, including the penalty criteria (“statutory factors”) set forth in the CAA, Section 113, 42 U.S.C. § 7413(e), including, the following: the size of the business, the economic impact of the penalty on the business, the violator’s full compliance history and good faith efforts to comply, the duration of the violation as established by any credible evidence (including evidence other than the applicable test method), payment by the violator of penalties previously assessed for the same violation, the economic benefit of noncompliance, and the seriousness of the violation. These factors were applied to the particular facts and circumstances of this case with specific reference to EPA’s Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1992 (“CAA Penalty Policy”), and Appendix III thereto (“Asbestos Penalty Policy”) which reflects the statutory penalty criteria and factors set forth at CAA, Section 113, 42 U.S.C. § 7413(e), the appropriate *Adjustment of Civil Monetary Penalties for Inflation*, pursuant to 40 C.F.R. Part 19, and the applicable EPA memoranda addressing EPA’s civil penalty policies to account for inflation.
79. Payment of the civil penalty amount, and any associated interest, administrative fees, and late payment penalties owed, shall be made by either cashier’s check, certified check, or electronic wire transfer, in the following manner:
- a. All payments by Respondents shall include reference to Respondents’ name and address, and the Docket Number of this action, *i.e.*, **CAA-03-2023-0072**;
 - b. All checks shall be made payable to the “United States Treasury”;
 - c. All payments made by check and sent by regular mail shall be addressed and mailed to:

U.S. Environmental Protection Agency
Cincinnati Finance Center
P.O. Box 979078
St. Louis, MO 63197-9000
 - d. For additional information concerning other acceptable methods of payment of the civil penalty amount see:

<https://www.epa.gov/financial/makepayment>
 - e. A copy of Respondents’ check or other documentation of payment of the penalty using the method selected by Respondents for payment shall be sent simultaneously by email to:

Conner Kingsley
Assistant Regional Counsel
kingsley.conner@epa.gov

and

U.S. EPA Region III Regional Hearing Clerk
R3_Hearing_Clerk@epa.gov.

80. Pursuant to 31 U.S.C. § 3717 and 40 C.F.R. § 13.11, EPA is entitled to assess interest and late payment penalties on outstanding debts owed to the United States and a charge to cover the costs of processing and handling a delinquent claim, as more fully described below. Accordingly, Respondents' failure to make timely payment of the penalty as specified herein shall result in the assessment of late payment charges including interest, penalties and/or administrative costs of handling delinquent debts.
81. Payment of the civil penalty is due and payable immediately upon receipt by Respondents of a true and correct copy of the fully executed and filed Consent Agreement and Final Order. Receipt by Respondents or Respondents' legal counsel of such copy of the fully executed Consent Agreement and Final Order, with a date stamp indicating the date on which the Consent Agreement and Final Order was filed with the Regional Hearing Clerk, shall constitute receipt of written initial notice that a debt is owed EPA by Respondents in accordance with 40 C.F.R. § 13.9(a).
82. INTEREST: In accordance with 40 C.F.R § 13.11(a)(1), interest on the civil penalty assessed in this Consent Agreement and Final Order will begin to accrue on the date Respondents are notified of its debt to the United States as established upon the ratification and filing of the fully executed Consent Agreement and Final Order with the Regional Hearing Clerk. However, EPA will not seek to recover interest on any amount of the civil penalties that is paid within thirty (30) calendar days after the date on which such interest begins to accrue. Interest will be assessed at the rate of the United States Treasury tax and loan rate in accordance with 40 C.F.R § 13.11(a).
83. ADMINISTRATIVE COSTS: The costs of the EPA's administrative handling of overdue debts will be charged and assessed monthly throughout the period a debt is overdue. 40 C.F.R. § 13.11(b). If payment is not received within 30 calendar days of the effective date of this Consent Agreement, EPA will also assess a \$15.00 administrative handling charge for administrative costs on unpaid penalties for the first thirty (30) day period after the payment is due and an additional \$15.00 for each subsequent thirty (30) days the penalty remains unpaid.
84. LATE PAYMENT PENALTY: A late payment penalty of six percent per year will be assessed monthly on any portion of the civil penalty that remains delinquent more than ninety (90) calendar days. 40 C.F.R. § 13.11(c). Should assessment of the penalty charge on the debt be required, it shall accrue from the first day payment is delinquent. 31 C.F.R. § 901.9(d).
85. If Respondents fail to make a full and complete payment of the civil penalty in accordance with this Consent Agreement and Final Order, the entire unpaid balance of the penalty shall become immediately due and owing. Failure by Respondents to pay the

CAA civil penalty assessed by the Final Order in full in accordance with this Consent Agreement and Final Order may subject Respondents to a civil action to collect the assessed penalty, plus interest, pursuant to Section 113 of the CAA, 42 U.S.C. § 7413. In any such collection action, the validity, amount and appropriateness of the penalty shall not be subject to review.

86. Respondents agree not to deduct for federal tax purposes the civil penalty assessed in this Consent Agreement and Final Order.
87. **The parties consent to service of the Final Order by e-mail at the following valid e-mail addresses: kingsley.conner@epa.gov (for Complainant), and sam.lesser@gmail.com (for Symba Capital) and mrubando@giantfloor.com (for Giant Floor).**

GENERAL SETTLEMENT CONDITIONS

88. By signing this Consent Agreement, Respondents acknowledge that this Consent Agreement and Final Order will be available to the public and represents that, to the best of Respondents' knowledge and belief, this Consent Agreement and Final Order does not contain any confidential business information or personally identifiable information from Respondents.
89. Respondents certify that any information or representation it has supplied or made to EPA concerning this matter was, at the time of submission true, accurate, and complete and that there has been no material change regarding the truthfulness, accuracy or completeness of such information or representation. EPA shall have the right to institute further actions to recover appropriate relief if EPA obtains evidence that any information provided and/or representations made by Respondents to the EPA regarding matters relevant to this Consent Agreement and Final Order, **including information about respondents' ability to pay a penalty**, are false or, in any material respect, inaccurate. This right shall be in addition to all other rights and causes of action that EPA may have, civil or criminal, under law or equity in such event. Respondents and their officers, directors and agents are aware that the submission of false or misleading information to the United States government may subject a person to separate civil and/or criminal liability.

CERTIFICATION OF COMPLIANCE

90. Respondents certify to EPA, upon personal investigation and to the best of its knowledge and belief, that it currently is in compliance with regard to the violations alleged in this Consent Agreement.

OTHER APPLICABLE LAWS

91. Nothing in this Consent Agreement and Final Order shall relieve Respondents of their obligation to comply with all applicable federal, state, and local laws and regulations, nor

shall it restrict EPA's authority to seek compliance with any applicable laws or regulations, nor shall it be construed to be a ruling on the validity of any federal, state or local permit. This Consent Agreement and Final Order does not constitute a waiver, suspension or modification of the requirements of the CAA, or any regulations promulgated thereunder.

RESERVATION OF RIGHTS

92. This Consent Agreement and Final Order resolves only EPA's claims for civil penalties for the specific violations alleged against Respondents in this Consent Agreement and Final Order. EPA reserves the right to commence action against any person, including Respondents, in response to any condition which EPA determines may present an imminent and substantial endangerment to the public health, public welfare, or the environment. This settlement is subject to all limitations on the scope of resolution and to the reservation of rights set forth in Section 22.18(c) of the Consolidated Rules of Practice, 40 C.F.R. § 22.18(c). EPA reserves any rights and remedies available to it under the CAA, the regulations promulgated thereunder, and any other federal law or regulation to enforce the terms of this Consent Agreement and Final Order after its effective date.

EXECUTION /PARTIES BOUND

93. This Consent Agreement and Final Order shall apply to and be binding upon the EPA, the Respondents and the officers, directors, employees, contractors, successors, agents and assigns of Respondents. By his or her signature below, the person who signs this Consent Agreement on behalf of each Respondent is acknowledging that he or she is fully authorized by the Respondent to execute this Consent Agreement and to legally bind Respondent to the terms and conditions of this Consent Agreement and Final Order.

EFFECTIVE DATE

94. The effective date of this Consent Agreement and Final Order is the date on which the Final Order, signed by the Regional Administrator of EPA, Region III, or his/her designee, the Regional Judicial Officer, is filed along with the Consent Agreement with the Regional Hearing Clerk pursuant to the Consolidated Rules of Practice.

ENTIRE AGREEMENT

95. This Consent Agreement and Final Order constitutes the entire agreement and understanding between the Parties regarding settlement of all claims for civil penalties pertaining to the specific violations alleged herein and there are no representations, warranties, covenants, terms, or conditions agreed upon between the Parties other than those expressed in this Consent Agreement and Final Order.

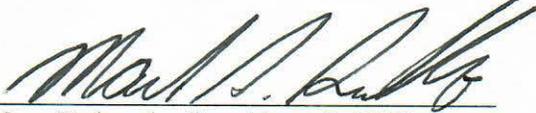
For Respondent: Symba Capital, LLC

Date: 04/17/2023

By: 
Sam Woodrap, President
Symba Capital, LLC

For Respondent: Giant Floor and Wall Covering Co., Inc.

Date: 3/24/23

By: 
Marc Rubando, President & CEO
Giant Floor and Wall Covering Co., Inc.

For the Complainant:

After reviewing the Consent Agreement and other pertinent matters, I, the undersigned Director of the Enforcement & Compliance Assurance Division of the United States Environmental Protection Agency, Region III, agree to the terms and conditions of this Consent Agreement and recommend that the Regional Administrator, or his/her designee, the Regional Judicial Officer, issue the attached Final Order.

By: _____
[*Digital Signature and Date*]
Karen Melvin, Director
Enforcement & Compliance Assurance Division
U.S. EPA – Region III
Complainant

Attorney for Complainant:

By: _____
[*Digital Signature and Date*]
Conner Kingsley
Assistant Regional Counsel
U.S. EPA – Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103



In the Matter of: :
 :
Symba Capital, LLC : U.S. EPA Docket No. CAA-03-2023-0072
124 Cedarhurst Ave, Suite 2 :
Cedarhurst, New York 11516 : Proceeding under Section 113 of the Clean
 : Air Act, 42 U.S.C. § 7413
& :
 :
Giant Floor and Wall Covering Co., Inc. :
1345 Route 315 :
Wilkes-Barre, Pennsylvania 18702 :
 :
Respondents. :
 :
Saint Michaels Boys Home :
72 Eihab Lane :
Tunkhannock, Pennsylvania 18615 :
 :
Facility. :
 :

FINAL ORDER

Complainant, the Director of the Enforcement and Compliance Assurance Division, U.S. Environmental Protection Agency, Region III, and Respondents, Symba Capital, LLC and Giant Floor and Wall Covering Co., have executed a document entitled “Consent Agreement,” which I hereby ratify as a Consent Agreement in accordance with the Consolidated Rules of Practice Governing the Administrative Assessment of Civil Penalties and the Revocation/Termination or Suspension of Permits (“Consolidated Rules of Practice”), 40 C.F.R. Part 22 with specific reference to Sections 22.13(b) and 22.18(b)(2) and (3). The terms of the foregoing Consent Agreement are accepted by the undersigned and incorporated into this Final Order as if fully set forth at length herein.

Based upon the representations of the parties in the attached Consent Agreement, the penalty agreed to therein is based upon consideration of, *inter alia*, EPA’s Clean Air Act Stationary Source Civil Penalty Policy, dated October 25, 1992 (“CAA Penalty Policy”), and Appendix III thereto (“Asbestos Penalty Policy”) and the statutory penalty criteria and factors set forth in Clean Air Act, Section 113, 42 U.S.C. § 7413(e).

NOW, THEREFORE, PURSUANT TO Sections 112 and 113 of the Clean Air Act, 42 U.S.C. Sections 7412 and 7413, and Section 22.18(b)(3) of the Consolidated Rules of Practice, **IT IS HEREBY ORDERED** that Respondents shall be jointly and severally liable to pay a civil

penalty in the amount of ***FORTY-THREE THOUSAND SIX HUNDRED AND NINETY-THREE dollars (\$43,693)***, in accordance with the payment provisions set forth in the Consent Agreement and in 40 C.F.R. § 22.31(c), and comply with the terms and conditions of the Consent Agreement.

This Final Order constitutes the final Agency action in this proceeding. This Final Order shall not in any case affect the right of the Agency or the United States to pursue appropriate injunctive or other equitable relief, or criminal sanctions for any violations of the law. This Final Order resolves only those causes of action alleged in the Consent Agreement and does not waive, extinguish or otherwise affect Respondents' obligation to comply with all applicable provisions of the CAA and the regulations promulgated thereunder.

The effective date of the attached Consent Agreement and this Final Order is the date on which this Final Order is filed with the Regional Hearing Clerk.

Date: _____

By: _____

Joseph J. Lisa
Regional Judicial and Presiding Officer
U.S. EPA Region III

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
Philadelphia, Pennsylvania 19103-2029

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CERTIFICATE OF SERVICE

I certify that the foregoing *Consent Agreement and Final Order* was filed with the EPA Region III Regional Hearing Clerk on the date that has been electronically stamped on the *Consent Agreement and Final Order*. I further certify that on the date set forth below, I caused to be served a true and correct copy of the foregoing to each of the following persons, in the manner specified below, at the following addresses:

Copies served via email to:

Sam Woodrap, President
Symba Capital, LLC
samlesser@gmail.com
124 Cedarhurst Ave, Suite 2
Cedarhurst, New York 11516

Marc Rubando, President & CEO
Giant Floor and Wall Covering Co., Inc
mrubando@giantfloor.com
1345 Route 315
Wilkes-Barre, PA 18702

Conner Kingsley
Assistant Regional Counsel
U.S. EPA, Region III
kingsley.conner@epa.gov

Richard Ponak
Enforcement Officer
U.S. EPA, Region III
ponak.rich@epa.gov

[Digital Signature and Date]
Regional Hearing Clerk
U.S. Environmental Protection Agency, Region III